IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **10.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.16779 of 2024
and W.M.P.No.18440 of 2024

M/s.Uzhavan & Co.,
Rep. By its Partner
Smt.V.Kavitha
No.58, South Thirumalaigiri,
Kalappanayakkanpatti,
Rasipuram – 637 404. ... Petitioner

-vs-

The State Tax Officer,
Athur (Rural) Assessment Circle,
Athur. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, call for the records of the respondent in TIN 33603164629/2013-14 and quash the proceeding dated 15.04.2024 passed therein and further direct the respondent to consider the objection filed by the petitioner dated 29.09.2023 and after granting personal hearing to the petitioner before passing revised order of assessment.

For Petitioner : Mr.B.Raveendran

For Respondent : Mr.T.N.C.Kaushik, AGP (T)

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ORDER

By this writ petition, an order dated 15.04.2024 relating to assessment period 2013-14 is challenged on the ground that the petitioner's reply was not taken into consideration. An order of assessment relating to the above mentioned assessment period was issued on 10.01.2020. Such order was challenged by filing W.P.Nos.18071 and 18072 of 2020. Such writ petitions were allowed by order dated 30.06.2021 and the assessment orders were set aside. The respondent carried the matter in appeal in W.A.Nos.1929 and 1939 of 2023. By judgment dated 28.07.2023, the order of the Single Judge was set aside and the matters were remanded for re-consideration. Thereafter, a hearing notice dated 12.09.2023 was received by the petitioner. The petitioner replied on 29.09.2023 by enclosing several documents including the earlier reply dated 13.08.2020. The impugned order was issued thereafter.

2. Learned counsel for the petitioner invited my attention to the reply dated 29.09.2023 and pointed out that several documents were annexed thereto, such as the reply dated 13.08.2020, copy of Form-I, copy of Form-R and copy of Form-T. Without considering any of these documents, he submits that the impugned order records that the petitioner failed to submit a reply or appear in person for the personal hearing. Therefore, he submits that the impugned order is not sustainable.

3. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice on behalf of the respondent. He submits that the matter may be remanded for re-consideration so as to enable consideration of the petitioner's reply.

4. The petitioner has placed on record the reply dated 29.09.2023. The despatch receipt is also affixed thereon. Such despatch receipt indicates that it was despatched by registered post on 04.10.2023. The enclosures to such reply include the earlier reply dated 13.08.2023, Form-I, Form-R and Form-T. On examining the impugned order, such reply was clearly not considered. Instead it was recorded that no documents were submitted by the petitioner. On account of non consideration of the petitioner's reply and the documents annexed thereto, the impugned order cannot be sustained.

5. For reasons aforesaid, impugned order dated 15.04.2024 is set aside and the matter is remanded for re-consideration. The respondent is directed to take into account the petitioner's reply, provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order within ***three months*** from the date of receipt of a copy of this order.

6. W.P.No.16779 of 2024 is disposed on the above terms. No costs. Consequently, W.M.P.No.18440 of 2024 is closed.

10.07.2024

rna
Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No

To

The State Tax Officer,
Athur (Rural) Assessment Circle,
Athur.

<u>SENTHILKUMAR RAMAMOORTHY,J</u>

rna

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and W.M.P.No.18440 of 2024

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